



## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Part 100

[Docket Number USCG-2023-0418]

RIN 1625-AA08

### Special Local Regulation; St. Mary's River, St. George's Creek, Piney Point, MD

**AGENCY:** Coast Guard, Department of Homeland Security (DHS).

**ACTION:** Temporary final rule.

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**SUMMARY:** The Coast Guard is establishing a temporary special local regulation for certain waters of the St. Mary's River. This action is necessary to provide for the safety of life on these navigable waters located at Piney Point, MD, during a high-speed power boat demonstration event on June 10, 2023, and June 11, 2023. This regulation prohibits persons and vessels from being in the regulated area unless authorized by the Captain of the Port, Maryland-National Capital Region, or the Coast Guard Event Patrol Commander.

**DATES:** This rule is effective from 7:30 a.m. on June 10, 2023, through 5 p.m. on June 11, 2023. This rule will be enforced from 7:30 a.m. to 5 p.m. on June 10, 2023, and from 7:30 a.m. to 5 p.m. on June 11, 2023.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG-2023-0418 in the search box and click "Search." Next, in the Document Type column, select "Supporting & Related Material."

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email Marine Science Technician Petty Officer 2nd Class Hollie Givens, U.S.

Coast Guard Sector Maryland-National Capital Region; telephone 410-576-2596, email Hollie.A.Givens@uscg.mil.

## **SUPPLEMENTARY INFORMATION:**

### **I. Table of Abbreviations**

CFR	Code of Federal Regulations
COTP	Captain of the Port
DHS	Department of Homeland Security
FR	<b>Federal Register</b>
TFR	Temporary Final Rule
PATCOM	Coast Guard Patrol Commander
§	Section
U.S.C.	United States Code

### **II. Background Information and Regulatory History**

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because immediate action is needed to respond to the potential safety hazards associated with the high-speed power boat race scheduled to take place on June 10, 2023, and June 11, 2023.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Immediate action is needed to respond to the potential safety hazards associated with the “Southern Maryland Boat Club Piney Point Rumble on the River Regatta” event.

### **III. Legal Authority and Need for Rule**

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70041. The Captain of the Port, Sector Maryland-National Capital Region (COTP) has determined that potential hazards associated with the vintage and historic racing powerboat

demonstration will be a safety concern for anyone intending to participate in this event and for vessels that operate within specified waters of the St. Mary's River. These hazards include risks of injury or death resulting from near or actual contact among participant vessels and spectator vessels or waterway users if normal vessel traffic were to interfere with the event. The purpose of this rule is to protect event participants, non-participants, and transiting vessels before, during, and after the scheduled event.

#### **IV. Discussion of the Rule**

This rule establishes special local regulations from 7:30 a.m. on June 10, 2023, through 5 p.m. on June 11, 2023. The regulations will be enforced from 7:30 a.m. to 5 p.m. on June 10, 2023, and from 7:30 a.m. to 5 p.m. on June 11, 2023. The regulated area will cover all navigable waters of St. George Creek within an area bounded by a line connecting the following points: from the shoreline at Cedar Point at position latitude 38°09'03.4" N, longitude 076°29'55.7" W; thence south along the shoreline to Coade Bar at latitude 38°08'22.5" N, longitude 076°29'19.9" W; thence southeast across St. George Creek to Dodson Point at latitude 38°08'03.8" N, longitude 076°29'44.6" W; thence north along the shoreline and the eastern extent of the St. George Island (SR-249) Bridge to Long bar (at the entrance to St. George Harbor) at latitude 38° 08' 50.6"N, longitude 076° 30' 13.0"W; thence northeast across St. George Creek to and terminating at the point of origin. The regulated area is approximately 1,750 yards in length and 940 yards in width.

This regulation provides additional information about areas within the regulated area, and their definitions and the restrictions that will apply to mariners. These areas include "Race Area," "Buffer Area," and "Spectator Area."

The duration of the special local regulation and size of the regulated area are intended to ensure the safety of life on these navigable waters before, during, and after the high-speed power boat event scheduled to take place from 8 a.m. to 4 p.m. on June 10, 2023, and from 8 a.m. to 4 p.m. on June 11, 2023. The COTP and the Coast Guard

Event PATCOM will have authority to forbid and control the movement of all vessels and persons, including event participants, in the regulated area. When hailed or signaled by an official patrol, a vessel or person in the regulated area will be required to immediately comply with the directions given by the COTP or Event PATCOM. If a person or vessel fails to follow such directions, the Coast Guard may expel them from the area, issue them a citation for failure to comply, or both.

Except for Southern Maryland Boat Club Piney Point Rumble on the River Regatta participants and vessels already at berth, a vessel or person will be required to get permission from the COTP or Event PATCOM before entering the regulated area. Vessel operators will be able to request permission to enter and transit through the regulated area by contacting the Event PATCOM on VHF-FM channel 16. Vessel traffic will be able to safely transit the regulated area must operate at safe speed that minimizes wake. A person or vessel not registered with the event sponsor as a participant or assigned as official patrols will be considered a spectator. Official Patrols are any vessel assigned or approved by the Commander, Coast Guard Sector Maryland-National Capital Region with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign. Official Patrols enforcing this regulated area can be contacted on VHF-FM channel 16 and channel 22A.

If permission is granted by the COTP or Event PATCOM, a person or vessel will be allowed to enter the regulated area or pass directly through the regulated area as instructed. Vessels will be required to operate at a safe speed that minimizes wake while within the regulated area in a manner that will not endanger event participants or any other craft. A spectator vessel must not loiter within the navigable channel while within the regulated area. Official patrol vessels will direct spectators to the designated spectator area. Only participant vessels and official patrol vessels will be allowed to enter the race area. The Coast Guard will publish a notice in the Fifth Coast Guard

District Local Notice to Mariners and issue a marine information broadcast on VHF-FM marine band radio announcing specific event dates and times.

## **V. Regulatory Analyses**

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

### *A. Regulatory Planning and Review*

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the size and duration of the regulated area, which will impact a small, designated area of St. George Creek for 19 total enforcement hours. This waterway supports mainly recreational vessel traffic with peak vessel traffic occurring during the summer season. Although this regulated area extends across the entire width of the waterway, the rule will allow vessels and persons to seek permission to enter the regulated area if it is safe to do so. The Event PATCOM will allow vessel traffic to transit the eastern portion of the waterway away from the event area when it is safe to do so. Vessels given permission to enter the regulated area must operate at a safe speed that minimizes wake and must not loiter within the navigable channel while within the regulated area. Moreover, the Coast Guard will issue a Broadcast Notice to Mariners via VHF-FM marine channel 16 about the status of the regulated area.

### *B. Impact on Small Entities*

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires

Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the regulated area may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency’s responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

### *C. Collection of Information*

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

### *D. Federalism and Indian Tribal Governments*

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

*E. Unfunded Mandates Reform Act*

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

*F. Environment*

We have analyzed this rule under Department of Homeland Security Directive 023-01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves implementation of regulations within 33 CFR part 100 applicable to organized marine

events on the navigable waters of the United States that could negatively impact the safety of waterway users and shore side activities in the event area for 19 total enforcement hours. It is categorically excluded from further review under paragraph L61 of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

#### *G. Protest Activities*

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places, or vessels.

#### **List of Subjects in 33 CFR Part 100**

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

#### **PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS**

1. The authority citation for part 100 continues to read as follows:

**Authority:** 46 U.S.C. 70041; 33 CFR 1.05-1.

2. Add § 100.T05-0418 to read as follows:

**§ 100.T05-0418 Southern Maryland Boat Club Piney Point Regatta, St. Mary's River, St. George Creek, Piney Point, MD.**

(a) *Locations.* All coordinates are based on North American Datum of 1983 (NAD 1983).

(1) *Regulated area.* All navigable waters of St. George Creek, within an area bounded by a line connecting the following points: from the shoreline at Cedar Point at position latitude 38°09'03.4" N, longitude 076°29'55.7" W; thence south along the



shoreline to Coade Bar at latitude 38°08'22.5" N, longitude 076°29'19.9" W; thence southeast across St. George Creek to Dodson Point at latitude 38°08'03.8" N, longitude 076°29'44.6" W; thence north along the shoreline and the eastern extent of the St. George Island (SR-249) Bridge to Long Bar (at the entrance to St. George Harbor) at latitude 38°08'50.6"N, longitude 076°30'13.0"W; thence northeast across St. George Creek to and terminating at the point of origin. The race area, buffer area, and spectator area are within the regulated area.

(2) *Race area.* The race area is a polygon in shape measuring approximately 700 yards in length by 240 yards in width. The area is bounded by a line commencing near Hodgson Point at position latitude 38°08'39.80" N, longitude 076°30'3.13" W, thence southeast to latitude 38°08'21.95" N, longitude 076°29'49.31" W; thence southwest to latitude 38°08'18.20"N, longitude 076°29'56.98" W, thence northwest to latitude 38°08'36.10" N, longitude 076°30'10.84" W; thence northeast to and terminating at the point of origin.

(3) *Buffer area.* The buffer area is a polygon in shape measuring approximately 90 yards in all directions surrounding the entire race area described in the preceding paragraph of this section. The area is bounded by a line commencing near Hodgson Point at position latitude 38°08'43.58" N, longitude 076°30'02.12" W; thence southeast to latitude 38°08'21.12" N, longitude 076°29'44.81" W, thence southwest to latitude 38°08'14.68" N, longitude 076°29'58.24" W; thence northwest to latitude 38°08'35.95" N, longitude 076°30'14.33" W, thence northeast to and terminating at the point of origin.

(4) *Spectator area.* The designated spectator area is a polygon in shape with its length measuring approximately 700 yards and its width measuring approximately 300 yards at its northern portion and 150 yards at its southern portion. The area is bounded by a line commencing at position latitude 38°08'46.86" N, longitude 076°29'51.07" W; thence southeast to latitude 38°08'38.11" N, longitude 076°29'44.27" W; thence south to

latitude 38°08'26.81" N, longitude 076°29'43.01" W; thence southwest to latitude 38°08'23.50" N, longitude 076°29'46.50" W, thence northwest to latitude 38°08'41.28" N, longitude 076°30'00.18" W, thence northeast to and terminating at the point of origin.

(b) *Definitions.* As used in this section--

*Buffer area* is a neutral area that surrounds the perimeter of the race area within the regulated area described by this section. The purpose of a buffer area is to minimize potential collision conflicts with marine event participants or high-speed powerboats and spectator vessels or nearby transiting vessels. This area provides separation between a race area and a specified spectator area or other vessels that are operating in the vicinity of the regulated area established by the special local regulations in this section.

*Captain of the Port (COTP) Maryland-National Capital Region* means the Commander, U.S. Coast Guard Sector Maryland-National Capital Region or any coast Guard commissioned, warrant or petty officer who has been authorized by the COTP to act on his behalf.

*Event Patrol Commander* or *Event PATCOM* means a commissioned, warrant, or petty officer of the U.S. Coast Guard who has been designated by the Commander, Coast Guard Sector Maryland-National Capital Region.

*Official patrol* means any vessel assigned or approved by Commander, Coast Guard Sector Maryland-National Capital Region with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign.

*Participant* means all persons and vessels registered with the event sponsor as participating in the "Southern Maryland Boat Club Piney Point Rumble on the River Regatta" event, or otherwise designated by the event sponsor as having a function tied to the event.

*Race area* is an area described by a line bound by coordinates provided in latitude and longitude that outlines the boundary of a race area within the regulated area defined

by this section.

*Spectator* means a person or vessel not registered with the event sponsor as participants or assigned as official patrols.

*Spectator area* is an area described by a line bound by coordinates provided in latitude and longitude that outlines the boundary of a spectator area within the regulated area defined by this section.

(c) *Special local regulations.* (1) The COTP Maryland-National Capital Region or Event PATCOM may forbid and control the movement of all vessels and persons, including event participants, in the regulated area described in paragraph (a)(1) of this section when hailed or signaled by an official patrol, a vessel or person in the regulated area shall immediately comply with the directions given by the patrol. Failure to do so may result in the Coast Guard expelling the person or vessel from the area, issuing a citation for failure to comply, or both. The COTP Maryland-National Capital Region or Event PATCOM may terminate the event, or a participant's operations at any time the COTP Maryland-National Capital Region or Event PATCOM believes it necessary to do so for the protection of life or property.

(2) Except for participants and vessels already at berth, a person or vessel within the regulated area at the start of enforcement of this section must immediately depart the regulated area.

(3) A spectator must contact the Event PATCOM to request permission to either enter or pass through the regulated area. The Event PATCOM, and official patrol vessels enforcing the regulated area, can be contacted on marine band radio VHF-FM channel 16 (156.8 MHz) and channels 22A (157.1 MHz). If permission is granted, the spectator must enter the designated Spectator Area or pass directly through the regulated area as instructed by Event PATCOM. A vessel within the regulated area must operate at safe speed that minimizes wake. A spectator vessel must not loiter within the navigable

channel while within the regulate area.

(4) Only participant vessels and official patrol vessels are allowed to enter and remain within the race area.

(5) Only participant vessels and official patrol vessels are allowed to enter and transit directly through the buffer area, in order to arrive at or depart from the race area.

(6) A person or vessel that desires to transit, moor, or anchor within the regulated area must obtain authorization from the COTP Maryland-National Capital Region or Event PATCOM before doing so. A person or vessel seeking such permission can contact the COTP Maryland-National Capital Region at telephone number 410-576-2693 or on Marine Band Radio, VHF-FM channel 16 (156.8 MHz) or the Event PATCOM on Marine Band radio, VHF-FM channel 16 (156.8 MHz).

(7) The Coast Guard will publish a notice in the Fifth Coast Guard District Local Notice to Mariners and issue a marine information broadcast on VHF-FM marine band radio announcing specific event dates and times.

(d) *Enforcement officials.* The Coast Guard may be assisted with marine event patrol and enforcement of the regulated area by other Federal, state, and local agencies.

(e) *Enforcement periods.* This section will be enforced from 7:30 a.m. to 5 p.m. on June 10, 2023, and from 7:30 a.m. to 5 p.m. on June 11, 2023.

Dated: May 25, 2023.

David E. O'Connell,  
Captain, U.S. Coast Guard,  
Captain of the Port Maryland-National Capital Region.

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